

REMARKS/ARGUMENTS

Applicant has carefully reviewed the Final Office Action of March 24, 2009, in which claims 13-22, 24, 31 and 33-36 are pending and have been rejected. In this amendment, claims 13, 24, and 35-36 have been amended. The amendments draw support from throughout the specification, and thus, no new matter has been added. Applicant respectfully traverses all objections, assertions, and rejections made by the Examiner. Favorable consideration of the above amendments and the following remarks is respectfully requested.

Claim Rejections - 35 U.S.C. § 102/103

Claims 13-15, 24, 31 and 33-34 have been rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over Lefebvre (U.S. Patent No. 5,108,418). Applicant respectfully traverses the rejection.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). (MPEP 2131). “** “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).” (MPEP 2143.03).

Lefebvre does not appear to disclose or suggest each and every element of independent claims 13 and 24. More specifically, Lefebvre does not appear to disclose or suggest three distinct configurations of filter legs, including a radially collapsed configuration, a centering configuration where each leg includes a bend region in the proximal section of the leg forming a pad configured to abut the vessel wall, and a filtering configuration where each leg is configured to avoid contact with the vessel wall in the proximal section of the leg. Instead, Lefebvre only appears to disclose a collapsed configuration and a filtering configuration, with legs that do not appear to be actuatable in a manner that will meet the structural requirements of the claims.

For at least the reasons discussed above, Applicant submits that independent claims 13 and 24 are both novel and non-obvious over Lefebvre. Applicant also submits that claims 14-15, 31, and 33-34 are in condition for allowance because each depends from claim 13 or 24, which

Applicant submits are allowable, and contains additional elements. Applicant respectfully requests that the rejection be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 16-17 and 19-21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Lefebvre in view of Simon (U.S. Patent No. 4,425,908); claim 18 was rejected under 35 U.S.C. §103(a) as unpatentable over Lefebvre in view of Simon and further in view of Boylan et al. (U.S. Patent No. 6,602,272); and claim 22 was rejected under 35 U.S.C. §103(a) as being unpatentable over Lefebvre as applied to claim 13 above in view of Mazzocchi et al. (U.S. Patent No. 6,949,103). Applicant respectfully traverses the rejections.

“All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). (MPEP 2143.03).

As discussed above, Applicant believes that Lefebvre does not disclose each element of independent claim 13. None of the cited references (alone or in combination) appear to remedy this shortcoming. Accordingly, for at least the reason that these claims depend from an independent claim which Applicant submits is allowable, and adds additional elements thereto, Applicant submits that these claims are in condition for allowance as well, and requests that the rejections be withdrawn.

Claim Rejections - 35 U.S.C. § 112

Claims 35-36 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Applicant respectfully traverses the rejection, believing the Examiner did not consider all of the words of the claims in making the rejection. The phrase “in the filtering configuration” is in contrast to the “centering configuration” of the base claims, and does not appear to have been considered. Applicant believes that the language used is sufficiently clear to render the limitations definite, and respectfully requests that the rejection be withdrawn.

Conclusion

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

Respectfully submitted,

Joel M. WasDyke

By his Attorney,

Date: May 11, 2009

A handwritten signature in black ink, appearing to read 'Glenn M. Seager', is written over a horizontal line.

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